

Schapiro Exhibit 267

09:38:33

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY)
PARTNERS, COUNTRY MUSIC.)
TELEVISION, INC., PARAMOUNT)
PICTURES CORPORATION, and BLACK)
ENTERTAINMENT TELEVISION, LLC,)
)
Plaintiffs,)
)
vs.) NO. 07-CV-2203
)
YOUTUBE, INC., YOUTUBE, LLC,)
and GOOGLE, INC.,)
)
Defendants.)
-----)
)
THE FOOTBALL ASSOCIATION PREMIER)
LEAGUE LIMITED, BOURNE CO., et al.,)
on behalf of themselves and all)
others similarly situated,)
)
Plaintiffs,)
vs.) NO. 07-CV-3582
)
YOUTUBE, INC., YOUTUBE, LLC, and)
GOOGLE, INC.,)
)
Defendants.)
-----)

HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF DOUG HERZOG
PALO ALTO, CALIFORNIA
FRIDAY, JANUARY 16, 2009

JANUARY 16, 2009

9:40 a.m.

HIGHLY CONFIDENTIAL VIDEOTAPED DEPOSITION OF
DOUG HERZOG, at WILSON SONSINI GOODRICH &
ROSATI, 601 South California, Palo Alto,
California pursuant to notice, before me,
ANDREA M. IGNACIO HOWARD, CLR, CCRR, RPR, CSR
License No. 9830.

A P P E A R A N C E S:

FOR THE PLAINTIFFS VIACOM INTERNATIONAL INC.:

JENNER & BLOCK

By: SUSAN J. KOHLMANN, Esq.

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FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and
GOOGLE, INC.:

WILSON SONSINI GOODRICH & ROSATI

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ALSO PRESENT:

Michelena Hallie, MTV Networks

Mark Morrill, Viacom

Jan Trudell, Videographer.

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2 17:15:01 sequence of the film on YouTube; do you?
3 17:15:04 MS. KOHLMANN: Objection.
4 17:15:05 THE WITNESS: I don't know.
5 17:15:05 MR. KRAMER: Q. You don't think that's
6 17:15:06 right; do you?
7 17:15:07 A I don't know.
8 17:15:07 MS. KOHLMANN: Objection.
9 17:15:08 MR. KRAMER: Q. Does that appeal to your
10 17:15:09 sense of equity?
11 17:15:10 A It's -- No. It's on YouTube.
12 17:15:11 MS. KOHLMANN: Objection.
13 17:15:11 MR. KRAMER: Right.
14 17:15:12 Q Does that make it -- does that mean that
15 17:15:12 it --
16 17:15:14 A YouTube thinks it's okay to show.
17 17:15:16 Q So you think it's okay to show?
18 17:15:19 A You -- YouTube --
19 17:15:19 MS. KOHLMANN: Objection.
20 17:15:20 THE WITNESS: -- thinks it's okay to show.
21 17:15:21 MR. KRAMER: Q. If YouTube thinks it's okay
22 17:15:24 to show --
23 17:15:24 A You'd have to ask YouTube.
24 17:15:25 Q Well, that's a good question, sir.
25 17:15:26 You can't tell whether it's authorized or

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2 17:15:28 not; right?
3 17:15:29 A I -- I -- I -- I can't -- I --
4 17:15:29 Q Did you think --
5 17:15:32 A -- could I tell whether that's authorized?
6 17:15:33 No, I'm not sure whether I can or I can't, yeah. It's
7 17:15:36 not my -- it's not my -- I didn't put it up there, and
8 17:15:39 it's not -- it doesn't belong to anything that I've,
9 17:15:42 you know, quote, "been involved in the making of,"
10 17:15:44 like, you know, the MTV Viacom -- the MTV Networks
11 17:15:47 Viacom content so...
12 17:15:49 Q What would you need to know what -- in order
13 17:15:51 to determine whether it was authorized or not?
14 17:15:53 A I'm not sure.
15 17:15:53 Q Can you think of some things that would help?
16 17:15:59 A That would clarify copyright?
17 17:16:01 No. Only if it pertains to, you know,
18 17:16:09 something, again, that either I put up there
19 17:16:10 personally or that I knew my company was involved
20 17:16:12 with.
21 17:16:13 Q You couldn't tell otherwise?
22 17:16:14 A I'm not sure I could.
23 17:16:15 Q You don't think you could?
24 17:16:18 A I don't think I could.
25 17:16:19 MS. KOHLMANN: Objection.

HERZOG

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